OVERVIEW OF OPTIONS RELATED TO HABILITATIVE COVERAGE UNDER COLORADO'S EHB BENCHMARK PLAN

Background

The Affordable Care Act lists "rehabilitative and habilitative services and devices" as one of the ten essential health benefits (EHB) that must be included in most insurance plans starting in 2014. In a December 2011 bulletin, the U.S. Department of Health and Human Services (HHS) acknowledged that coverage for habilitative services varies widely across states and insurance products, and insurance markets.

Defining Habilitative Services

While habilitative services are referenced in some state statutes and regulations, there is not a statutory definition in Colorado. Definitions from other states and non-governmental entities also vary. Broadly, habilitative services are those that facilitate learning and maintaining physical skills necessary to daily living, in contrast to re-acquisition of previously known skills, which is considered rehabilitation.

Sample Habilitative Definitions

Source	Key definitional language
Federal Medicaid	Assist in acquiring, retaining, and improving self-help, socialization, and adaptive skills
California; National Association of Insurance Commissioners	Help a person keep, learn, or improve skills
American Academy of Physical Medicine and Rehabilitation	Attain functional abilities, or lessen the deterioration of function over time

Health services commonly covered in rehabilitative and habilitative categories include physical therapy (PT), speech therapy (ST), and occupational therapy (OT). Most definitions require these services to be medically necessary to achieve goals involving physical skills. Existing law referencing habilitative services typically contemplates its applicability to children to learn or acquire skills. See Appendix A. However, in the "maintaining" or "retaining" realm, habilitative services can apply across the age spectrum.

Options for Coverage of Habilitative Services in Colorado's EHB Package

The December 2011 HHS bulletin outlined two options for states to address habilitative services for purposes of state-specific EHB Packages, as follows:

1. A state could require that habilitative services be offered at parity with rehabilitative services. Thus, a plan covering services such as PT, ST, and OT for rehabilitation must also cover those services in similar scope, amount, and duration for habilitation.
2. A state could take a transitional approach, wherein the state would decide which habilitative services to cover and report that coverage to HHS. HHS would evaluate those decisions, and further define habilitative services in the future.

The second option above potentially provides Colorado the ability to design a custom habilitative benefit for the state. However, this process is likely to be time- and resource-intensive. Under this option, Colorado may be able to fill a gap in habilitative benefits by substituting these benefits from another EHB benchmark plan.

The first option, in contrast, would provide habilitative benefits on par with those currently offered in rehabilitation and reflect current utilization in the rehabilitative arena. A key policy decision would still remain in determining whether habilitative benefits are in addition to rehabilitative benefits or if the two services should be considered one benefit. For example, if 20 PT/ST/OT visits are currently permitted per year for rehabilitation, would a patient in need of further services to maintain function be entitled to an additional 20 visits for habilitative purposes?

Public Comments

The Governor's Office, the Colorado Division of Insurance, and the Colorado Health Benefit Exchange seek comment on the following questions:

- Which of the HHS options regarding habilitative services should Colorado select and why?
- If the state elects to require parity between habilitative and rehabilitative benefits, should the habilitative benefit be additive (e.g., an separate and additional benefit) or cumulative (e.g., included with rehabilitative benefit)? Why?
- How do these decisions impact the selection of an EHB benchmark option? Which EHB benchmark option should be selected given the commenting entity's priorities?

APPENDIX A
EXISTING COLORADO STATUTORY REQUIREMENTS FOR COVERAGE OF HABILITATIVE SERVICES

Various insurance mandates in the state statutes include habilitative services, as follows:

- Cleft Palate: CRS 10-16-104(1)(c)(II)(A)
  "With regard to newborn children born with cleft lip or cleft palate or both, there shall be no age limit on benefits for such conditions, and care and treatment shall include to the extent medically necessary: oral and facial surgery, surgical management, and follow-up care by plastic surgeons and oral surgeons; prosthetic treatment such as obturators, speech appliances, and feeding appliances; medically necessary orthodontic treatment; medically necessary prosthodontic treatment; *habilitative speech therapy*; otolaryngology treatment; and audiological assessments and treatment."

- Autism spectrum disorders: CRS 10-16-104(1.4)(a)(XII)(C)
  "*Habilitative* or rehabilitative *care, including but not limited to, occupational therapy, physical therapy, or speech therapy, or any combination of those therapies*. For a person who is also covered under subsection (1.7) of this section, the level of benefits for occupational therapy, physical therapy, or speech therapy shall exceed the limit of twenty visits for each therapy if such therapy is medically necessary to treat autism spectrum disorders under this subsection (1.4)."

- Therapies for congenital defects and birth abnormalities: CRS 10-16-104(1.7)
  (a) "After the first thirty-one days of life, policy limitations and exclusions that are generally applicable under the policy may apply; except that all individual and group health benefit plans shall provide for medically necessary physical, occupational, and speech therapy for the care and treatment of congenital defects and birth abnormalities for a covered child from the child's third birthday to the child's sixth birthday.
  (b) "The level of benefits required in paragraph (a) of this subsection (1.7) *shall be the greater of the number of such visits, provided under the policy or plan or twenty therapy visits per year each for physical therapy, occupational therapy, and speech therapy*. Said therapy visits shall be distributed as medically appropriate throughout the yearly term of the policy or yearly term of the enrollee coverage contract, without regard to whether the condition is acute or chronic and without regard to whether the purposes of the therapy is to maintain or to improve functional capacity."

- Early intervention services: CRS 10-16-104(1.3)(b)(IV)(B)
  "Services provided to a child who is not participating in part C and services that are not provided pursuant to an IFSP. *However, such services shall be covered at the level specified in paragraph (b) of subsection (1.7) of this section."* [For children birth to age 3 who are not receiving early intervention services through Part C of the Individuals with Disabilities Education Act.]